

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JUICE ENTERTAINMENT, LLC, .  
Plaintiffs, . Case No. 11-cv-07318-ccc-clw  
vs. .  
LIVE NATION ENTERTAINMENT, . Newark, New Jersey  
INC., . September 27, 2019  
Defendants. .

TRANSCRIPT OF ORAL OPINIONS  
BEFORE THE HONORABLE CATHY L. WALDOR  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: No attorneys present.

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This oral opinion has been reviewed and revised in  
accordance with L. Civ. R. 52.1

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I N D E XProceedingPage

Judge's Opinions

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(Commencement of proceedings 12:23 P.M.)

THE COURT: It's 12:23 on September 27<sup>th</sup>, 2019.

This is an oral opinion in Juice Entertainment versus Live Nation, 11-cv-07318. This is a motion to strike plaintiff's expert report, and plaintiff alleges unclean hands, an unclean hands theory in that the defendant was often recalcitrant, or late, or non-compliant with discovery; and attaches, has 200 pages of exhibits ECF-109-1, that include letters to the Court, and motions to compel, as illustrating actual discovery disputes, and Court resolution that caused those delays.

Plaintiff further argues that, due to defendant's late submission of discovery in May 2016, that was necessary to prepare the proposed expert report, which was disclosed on June 6<sup>th</sup>, 2019, was the cause of the delay in the late report, some three years after discovery was available to plaintiff.

Of note in this litigation, original counsel was substituted on September 7<sup>th</sup>, 2019. A motion for summary judgment was filed on October 17<sup>th</sup>, 2016, ECF-73. Opposition on December 19<sup>th</sup>, 2016, ECF-75. And reply on January 23<sup>rd</sup>, 2017, ECF-76. Judge Walls issued his opinion and order, that ECF-81 and 82, on May 23<sup>rd</sup> and 24<sup>th</sup> of 2018.

Judge Walls held that only nominal damages can be recovered on the defamation claim. "Plaintiff's defamation

1 claim can survive summary judgment. However, because of the  
2 Presumed Damages Doctrine, any recovery at trial, on the  
3 defamation claim, will be limited to those nominal damages."  
4 ECF-81 at page 18.

5 Furthermore, Judge Walls decided that, "While  
6 plaintiffs may have successfully promoted and produced  
7 smaller shows, the Event was of a much larger scale, and  
8 plaintiff's sole foray into larger scale outdoor event  
9 production resulted in losses, not profits. Lost profit  
10 damages are thus too remote and speculative to meet the legal  
11 standard of reasonable certainty." RSB citing RSB Lab  
12 Services, 368, N.J. Super. 556. That's ECF-81 at page 20.

13 Judge Walls granted summary judgment as to count  
14 one, tortious interference with contract; and limited damages  
15 on count three, the defamation claim; and precluded damages  
16 on count two.

17 Plaintiff now submits to defendant an expert report  
18 on damages, which was not supplied to the Court in its  
19 opposition to the motion to strike. Defendant moves to  
20 strike the report due to a lack of timeliness, which with the  
21 Court agrees.

22 Furthermore, any proposed expert report is in  
23 contravention of Judge Walls' summary judgment opinion and  
24 order, and hints at this Court reversing his opinion.

25 For the above stated reasons, the motion to strike

1 is granted. And motion docket number 105 will be terminated.  
2 An order will follow.

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4 (Conclusion of Proceedings at 12:27 P.M.)

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Certification

I, JENNY POWER, Transcriptionist, do hereby certify that the 5 pages contained herein constitute a full, true, and accurate transcript from the official electronic recording of the proceedings had in the above-entitled matter; that research was performed on the spelling of proper names and utilizing the information provided, but that in many cases the spellings were educated guesses; that the transcript was prepared by me or under my direction and was done to the best of my skill and ability.

I further certify that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

/s/ *Jenny Power*

1<sup>st</sup> of October, 2019

Signature of Approved Transcriber

(Date)

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